IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 927 OF 2005

Smt. Yashoda J. Ghorpade & ors. ... Appellants

V/s

Nathu Anant Ghorpade & ors. ... Respondents

Mr. V.B. Ghorpade for the appellants.

CORAM: P.V. KAKADE, J.

DATED: 6TH SEPT., 2005

P.C.:

1. The appellants have preferred this appeal against the judgment and order passed by the Addl. District Judge, Satara, dismissing the appeal and confirming the judgment and order passed by the Civil Judge, J.D., Satara, dismissing the plaintiffs' suit for specific performance.

2. I have heard the learned counsel for the appellants. Perused the record including the judgments of both the Courts below.

3. The plaintiffs filed the suit for specific

performance of the contract which was executed on 8.5.1956 in which the suit for specific performance came to be filed on 11.1.1988 i.e. about 32 years after the execution of the document.

Both the Courts below have come to the conclusion that the suit is barred by the law of limitation. Without further elaboration, with regard to the facts involved, it is evident position that the plaintiffs' witness in his cross-examination has admitted that deceased Eknath had gone to the house of defendants with money and demanded them to reconvey the suit land showing his readiness to repay the consideration amount and at that time the defendants refused to reconvey the suit property in their favour on the basis of the agreement of 1956 Exh.61 and, therefore, though the terms of agreement showed that there was no specific time limit fixed for the performance of contract, the suit is clearly hit by the provision of Art.54 of the Limitation Act and, as such the suit should have been filed within three years from the date of refusal of specific performance of the contract by the other side. On this ground alone, the appeal has to be dismissed without going into any other factual aspects especially when there is no substantial question of law involved in this

appeal.

In the result, the appeal stands dismissed with no order as to costs.

Consequently, the Civil Application No. 1467 of 2005 also stands dismissed with no order as to costs.

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